

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE**

**Call to Order:** By **CHAIRMAN DICK HAINES**, on February 14, 2001 at 8:30 A.M., in Room 317-C Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Dick Haines, Chairman (R)  
Sen. William Crismore, Vice Chairman (R)  
Rep. Christine Kaufmann (D)  
Sen. Linda Nelson (D)  
Sen. Bill Tash (R)  
Rep. Joe Tropila (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Gary Hamel, Legislative Branch  
Amber Sauer, Committee Secretary  
Doug Schmitz, OBPP  
Todd Younkin, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: None, 2/11/2001  
Executive Action: Miscellaneous Departments

***{Tape : 1; Side : A; Approx. Time Counter : 0}***

#### **Miscellaneous Issues To Be Discussed**

**Mr. Gary Hamel, LFD**, distributed the agenda and information for the committee.

**EXHIBIT(jnh37a01)**

**Mr. Hamel** began with the Department of Natural Resources (DNRC), Montana Grass Commission Program DP-37. The issue is that the Grass Commission did not indicate the DP to be a biennial appropriation but that was the Department's intent. It would allow the Department to spend the money over the two-year period rather than the one year.

**{Tape : 1; Side : A; Approx. Time Counter : 38}**

**Motion/Vote:** SEN. NELSON moved that DP-37 DNRC MONTANA GRASS CONSERVATION COMMISSION APPROPRIATION BE BIENNIAL FOR \$96,508 BE ADOPTED. Motion carried unanimously.

**Mr. Hamel** continued with the proposed funding switches in an attempt to reduce general fund.

**EXHIBIT (jnh37a02)**

He explained he will create a decision package (DP) to reduce general fund \$251,667 in fiscal 2002 and \$259,859 in fiscal 2003 for a total of \$511,526 in the first reporting level. Overall the general fund expenditures will be reduced over the biennium \$710,966. The second item would be a funding switch since the DP had already been approved. It is DNRC Conservation Resource Development Division DP-10 Dry Prairie Rural Water Project. **Mr. Hamel** would be able to switch the funding source on that DP. The last proposal would be moving funds from Renewable Resources into Reclamation and Development to even out some of the monies. That is not an existing DP.

**{Tape : 1; Side : A; Approx. Time Counter : 74}**

**Motion/Vote:** SEN. CRISMORE moved that DNRC GENERAL FUND REDUCTION PROPOSAL TOTALING \$710,966 PER EXHIBIT 2 BE ADOPTED. Motion carried unanimously.

**Mr. Hamel** moved to the Crow Tribe Settlement. **Mr. Chuck Swysgood, Budget Director, Office of Budget and Program Planning**, spoke to this issue. He addressed the differences in interpretation between the OBPP and **Mr. Greg Petesch, Director, Legal Services Offices, Legislative Services Division**, in regard to the Crow Tribe Settlement. This is a compact agreement to pay the Crow Tribe \$15,000,000 in equal annual installments for no more than 15 years. **Mr. Swysgood** stated he has researched the issue extensively but he cannot find very definite direction in the records. He explained the actions during the special session which dealt with the settlement and the compact itself. The state began its payments in the amount of \$1.5 million each of

the first two years. **Mr. Petesch** has determined once the payments were started, they cannot be changed to a lesser amount and spread over additional time. **Mr. Swysgood** stated one legislature cannot encumber another and therefore if equal annual payments are made by this session, it is in accordance with the compact. His proposal was to make two \$500,000 payments in the biennium. That would need to be increased to at least \$1,000,000 each year of the next biennium to stay on the fifteen year time frame. The next legislature could increase that if funds were available. He has spoken with all lawyers and they cannot agree or disagree with the strategy. He explained the situation more fully as to the budget shortfall for the 2002-2003 biennium. He concluded he doubted if everyone could agree but felt he was within the rules of the compact with his proposal. **REP. KAUFMANN** asked if it had been discussed with the Crow Tribe. **Mr. Swysgood** replied it had not but he knew they are uneasy with the proposal. **SEN. NELSON** expressed concern in not having feedback from the Crow Tribe. **Mr. Swysgood** stated his issue was lack of flexibility in dealing with the budget shortfall and appreciated being able to appear before the committee again. **SEN. NELSON** asked if there was room for negotiation. **Mr. Swysgood** stated it was in the hands of the committee.

**CHAIRMAN HAINES** felt it should be revisited but it will be dealt with several times before the session is completed. There was further discussion about obligating future legislatures, setting a payment schedule that cannot be changed, and following the language in the compact. **Mr. Hamel** restated the LFD issue on page C-144 which is that they do not feel the payments can be changed.

*{Tape : 1; Side : A; Approx. Time Counter : 460}*

**Motion:** **SEN. CRISMORE** moved that **DP-1 CROW TRIBE SETTLEMENT AS PROPOSED BY GOVERNOR MARTZ OF \$500,000 EACH YEAR OF THE BIENNIUM BE ADOPTED.**

**EXHIBIT** (jnh37a03)

**Discussion:** **Mr. Schmitz, OBPP,** read the proposal per exhibit 3.

*{Tape : 1; Side : B; Approx. Time Counter : 0}*

**Substitute Motion/Vote:** **REP. TROPILA** made a substitute motion that **NOT TO REVISIT DP-1 CROW TRIBE SETTLEMENT AND LET IT GO TO THE FLOOR BE ADOPTED.** Substitute motion failed 3-3 with Crismore, Haines, and Tash voting no.

**REP. KAUFMANN** stated she felt the obligation of future legislatures was a concern; however, it is possible each session will feel they do not have the funds to commit and result in obligating the last session of the fifteen year period to pay the entire amount. That could be the undoing of the compact.

*{Tape : 1; Side : B; Approx. Time Counter : 30}*

**Motion/Vote:** **SEN. CRISMORE** moved that **DP-1 CROW TRIBE SETTLEMENT AS PROPOSED BY GOVERNOR MARTZ OF \$500,000 EACH YEAR OF THE BIENNIUM BE ADOPTED**. Motion failed 3-3 with Kaufmann, Nelson and Tropila voting no.

**Mr. Hamel** moved on to the Agricultural Heritage Program to revisit DP-1 Agriculture Heritage on C-146 of the LFD book. He reminded the committee the original discussion was that the decision package did not make it to the table. The action taken was to fund the changes in Governor Martz' budget of reducing the amount from \$1,000,000 to \$400,000. **CHAIRMAN HAINES** stated constituents have been asking the committee to revisit this and increase the funding.

*{Tape : 1; Side : B; Approx. Time Counter : 60}*

**Motion/Vote:** **SEN. TASH** moved **TO REVISIT DP-1 AGRICULTURE HERITAGE IN CONSERVATION RESOURCE DEVELOPMENT DIVISION ON PAGE C-146 IN THE LFD BUDGET BOOK**. Motion carried 5-1 with Nelson voting no.

**EXHIBIT** (jnh37a04)

**Motion:** **SEN. TASH** moved that **DP-1 AGRICULTURE HERITAGE BE INCREASED TO \$1,000,000 GENERAL FUND ONE-TIME-ONLY FOR THE BIENNIUM BE ADOPTED**.

**Discussion:** **SEN. TASH** stated he has heard from many constituents regarding the importance of the program in an effort to keep the people of Montana on agriculture land. He felt this tool has demonstrated its effectiveness and should be funded an additional amount. He explained the program further and how it has been effective.

**REP. KAUFMANN** added her concerns about agriculture in Montana and felt it is very important to provide the opportunity to preserve the agriculture lands. **SEN. NELSON** stated her vote will be "no" due to the ending fund balance being so low and although she would like to support it, she cannot vote for it. She felt there are higher priorities. **CHAIRMAN HAINES** stated he sees

agricultural land being turned into commercial land and he supports the Agricultural Heritage Program. He would like to see the issue get out of committee for further input.

***{Tape : 1; Side : B; Approx. Time Counter : 158}***

**Motion/Vote: SEN. TASH** moved that **DP-1 AGRICULTURE HERITAGE BE INCREASED TO \$1,000,000 GENERAL FUND ONE-TIME-ONLY FOR THE BIENNIUM BE ADOPTED. Motion carried 4-2 with Crismore and Nelson voting no.**

(Note: the following proposals are listed in Exhibit 2.)

**Mr. Hamel** presented the DNRC's new request number 1 per exhibit 2. This is a Forestry Division new proposal presented as a 2-year pilot project by DNRC Fire and Aviation Management Program to help private landowners in Montana assess their existing risk to structures, resources and property from wildland fire. The project would provide technical assistance, public information, etc., to the citizens. Funding for the project would come from a \$200,000 federal one-time-only grant to the DNRC through the US Forest Service. The DNRC is requesting a \$200,000 biennial appropriation spending authority. **Mr. Bud Clinch, Director, DNRC,** stated these funds have just become available. **Mr. Don Artley, Administrator, Forestry Division, DNRC,** added the money was appropriated to the federal agencies in October and has taken this amount of time to digest \$1.8 billion and trickle it down to the state level. The funding is available for a two-year period and is a golden opportunity to take advantage of federal funds. The funding is tied to private lands that were impacted by the past fire season. There was further discussion as to where the funds would be used and what areas of Montana would qualify.

***{Tape : 1; Side : B; Approx. Time Counter : 290}***

**Motion/Vote: SEN. NELSON** moved that **NEW PROPOSAL FROM FORESTRY DIVISION, DNRC, FOR \$200,000 FEDERAL SPENDING AUTHORITY FOR HOMEOWNER DEFENSIBLE SPACE AUDITS ONE-TIME-ONLY, BIENNIAL, FOR THE BIENNIUM BE ADOPTED. Motion carried unanimously.**

**Mr. Hamel** stated it could be designated as DP-17.

At this time it was noted a group of students from Montana City were visiting the committee and observing its action.

**Mr. Hamel** continued with DP-18 DNRC new request Private Forest Land Owner Assistance. This funding request is based on the US Forest Service assurance that at least \$450,000 in new federal

grant funds is available to DNRC due to the 2000 fire season. He explained the request further. It is all federal funding which may be spent over a period of time of three years.

**CHAIRMAN HAINES** explained the proposal for the students visiting. **Mr. Artley** stated this is a separate proposal since it comes from a different source. It is companion funding to the previous DP approved. This would have a broader area of influence. There would be \$150,000 for the biennium set aside for grants to homeowners to make their properties more defensible against fire. The Department would cost share on a 50-50 basis. The Governor's Office would provide a temporary FTE to help with the paperwork. **Mr. Artley** is asking for \$350,000 this biennium saving \$100,000 for the third year of the program. **REP. KAUFMANN** asked about the reference for education of school children. **Mr. Artley** replied they are considering making an inter-active CD available to the education community called "Forests Forever."

*{Tape : 1; Side : B; Approx. Time Counter : 445}*

**Motion/Vote:** SEN. NELSON moved that DP-18 DNRC NEW PROPOSAL PRIVATE FOREST LAND OWNER ASSISTANCE ONE-TIME-ONLY, BIENNIAL, RESTRICTED OF \$350,000 BE ADOPTED. Motion carried unanimously.

**Mr. Clinch** added this is to help those areas that have not been burned but could be at risk and need to prepare the area for fire defense.

*{Tape : 2; Side : A; Approx. Time Counter : 0}*

**CHAIRMAN HAINES** took a moment to explain the DP to the students visiting and the protocol in speaking through the **CHAIR**.

**Mr. Hamel** stated that concluded action necessary for the DNRC.

**Mr. Hamel** continued with language that needed action taken by the committee for the Department of Environmental Quality (DEQ) on C-68 of the LFD budget book.

**Ms. Ann Danzer, Administrator, Centralized Services Division, DEQ,** stated they agreed with **Mr. Hamel's** recommendation to approve the language.

*{Tape : 2; Side : A; Approx. Time Counter : 35}*

**Motion/Vote: SEN. NELSON** moved that **LANGUAGE FOR DEPARTMENT OF ENVIRONMENTAL QUALITY AS FOLLOWS BE ADOPTED.** Motion carried unanimously.

"Items 2, 4, and 6 include a total of \$177,860 for the 2003 biennium for the Montana Natural Resources Information System. Quarterly payments must be made upon receipt of the bills from the state library up to the total amount appropriated."

**Mr. Hamel** moved on to DEQ DP's 54 and 55 which would create an odd dollar amount (\$30,500,019 and \$1,000,175) as a biennial appropriation. He was asking the committee's permission to change MBARS to reflect even dollar amounts for those appropriations which would be \$30,500,000 and \$1,000,000 respectively. He explained the situation further.

*{Tape : 2; Side : A; Approx. Time Counter : 80}*

**Motion/Vote: SEN. CRISMORE** moved that **DP-54 AND DP-55 FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY BE ADJUSTED FOR EVEN DOLLAR AMOUNTS OF \$30,500,000 AND \$1,000,000 RESPECTIVELY BE ADOPTED.** Motion carried unanimously.

That concluded any unresolved issues for the DEQ.

**Mr. Hamel** continued with Fish, Wildlife and Parks DP-103 which was a reduction of FTE by .5 in each year. By allowing the system to calculate expenses, there are differences in proposed personal services expenses versus the department's hand calculations. **Mr. Hamel** presented the options per exhibit 1. The committee discussed the issue.

*{Tape : 2; Side : A; Approx. Time Counter : 140}*

**Motion/Vote: SEN. NELSON** moved that **DP-103 BE REDUCED BY \$2,337 AND \$2,347 IN FISCAL 2002 AND 2003 RESPECTIVELY BE ADOPTED.** Motion carried unanimously.

**Mr. Hamel** discussed DP-910 for Fish, Wildlife and Parks which is a request from the department to move \$50,000 of the operations expense to the grants category.

*{Tape : 2; Side : A; Approx. Time Counter : 160}*

**Motion/Vote: SEN. CRISMORE** moved that **FISH, WILDLIFE AND PARKS DP-910 CONSERVATION AND REINVESTMENT ACT (CARA) FUNDING MOVE \$50,000 FROM OPERATIONS EXPENSE TO GRANTS CATEGORY BE ADOPTED.**  
**Motion carried unanimously.**

**Mr. Hamel** turned the meeting over to **Mr. Todd Younkin, LFD**, to explain the Department of Agriculture, Department of Livestock, and Department of Commerce general fund issues.

**Mr. Younkin** presented the Department of Livestock general fund reduction proposals. The Department proposed a funding switch for an additional \$10,000 per year or \$20,000 for the biennium of general fund monies be removed from the Centralized Services budget in program 01 and replaced with federal or state special revenue per the following exhibit.

**EXHIBIT(jnh37a05)**

**Mr. George Harris, Administrator, Centralized Services Division, Department of Livestock**, stated the funding switch needed to be in state special revenue and specifically the livestock per capita fee 02-426 account.

*{Tape : 2; Side : A; Approx. Time Counter : 215}*

**Motion/Vote: SEN. TASH** moved that **FUNDING SWITCH OF \$10,000 PER YEAR OR \$20,000 FOR THE BIENNIUM OF GENERAL FUND MONIES BE REDUCED FROM THE CENTRALIZED SERVICES BUDGET IN PROGRAM 01 AND REPLACED WITH STATE SPECIAL LIVESTOCK PER CAPITAL FEE BE ADOPTED.**  
**Motion carried unanimously.**

**Mr. Younkin** continued with the Department of Agriculture's proposal for reduction in general funds.

**Mr. Ralph Peck, Director, Department of Agriculture**, presented several options per the following exhibit.

**EXHIBIT(jnh37a06)**

There was discussion regarding the proposal options. **Mr. Peck** stated the proposed fee increase for pesticide (option 1) would be the first in ten years. This is contingent on SB 143 passing. If it did not pass, **Mr. Peck** would have to appear before the committee again and present additional options in groundwater operations and enforcement operations which would be very difficult. **SEN. TASH** asked how the pesticide fees compare with other states. **Mr. Peck** stated Montana is one of the highest.

The general fund does contribute to the program otherwise the fees would need to be increased \$65.

**SEN. NELSON** asked what amount the committee was seeking from each department in general fund reductions. **CHAIRMAN HAINES** stated he talked to each department administrator and asked them to present what they felt they could possibly reduce--not any given percent or amount.

There was further discussion regarding SB 143, its fee increases, and the revenue which would be generated. This proposal is to increase the pesticide fee an additional \$5 to help reduce the general fund expenditures.

*{Tape : 2; Side : B; Approx. Time Counter : 0}*

The committee discussed option 3 per exhibit 6. **REP. KAUFMANN** asked if all three options were to be accepted or just one of the proposals. **CHAIRMAN HAINES** suggested all three be accepted.

**Ms. Pam Langley, Representative, Montana Agri-Business Association, and Montana Grain Elevators Association,** stated the fees have been increased from \$150 to \$185 per product in Governor Martz' budget this session with this proposal being an additional \$10, it makes the total fee \$195. The companies were not happy with the increases but agreed due to the fact that all money was going into the pesticide program. Her concern is that with an additional \$10 increase, it will be about 30-33% increase overall and Montana is a relative low-use state. If the companies would need to decide in which states to register product use, they may decide not to register in Montana with the fees being that high. She recommended caution be used in increasing fees with the possible loss of product use.

**SEN. NELSON** pointed out this was not a funding switch with federal funds but a direct hit on the Department of Agriculture's budget. **CHAIRMAN HAINES** responded that the proposals from the Department of Agriculture have already been trimmed since some of them would have had too great an impact on programs. There was further discussion regarding the increase in registration fees and the impact to the companies doing business in Montana.

**SEN. NELSON** stated she felt an increase in fees for the companies would most likely result in increased costs to the consumer in order for the companies to recoup their costs.

*{Tape : 2; Side : B; Approx. Time Counter : 175}*

**Mr. Peck** summarized the three options and the results. He explained option 2 in more detail for clarification.

*{Tape : 2; Side : B; Approx. Time Counter : 275}*

**Motion:** REP. KAUFMANN moved that DEPARTMENT OF AGRICULTURE OPTION 1 PROGRAM 30 TO REDUCE GENERAL FUND APPROPRIATIONS BY \$32,195 EACH YEAR OF THE BIENNIUM BE ADOPTED. Motion failed for lack of a second.

*{Tape : 2; Side : B; Approx. Time Counter : 283}*

There was no motion on Option 2.

*{Tape : 2; Side : B; Approx. Time Counter : 288}*

**Motion/Vote:** SEN. CRISMORE moved that DEPARTMENT OF AGRICULTURE OPTION 3 REPLACE FUNDING THROUGH FEES INCREASED FOR A REDUCTION IN GENERAL FUND OF \$54,195 EACH YEAR OF THE BIENNIUM BE ADOPTED. Motion carried 5-1 with Tropila voting no.

**Mr. Younkin** continued with the Department of Commerce, Consumer Affairs Division, proposed reductions in general fund appropriations in the Telemarketing and Lemon Law programs. He distributed information regarding language. The department is asking that the principal of the language be approved by the committee.

**EXHIBIT (jnh37a07)**

**Mr. Younkin** stated if a dollar amount was requested, it would be in the amount of \$56,000. **Mr. Schmitz, OBPP**, stated the language is attempting to allow settlement fees derived from court actions to replace general fund dollars. **Mr. Younkin** stated they are asking for approval of the intent of the language which is to reduce general funds by a like amount of funds received in settlements.

*{Tape : 2; Side : B; Approx. Time Counter : 385}*

**Motion/Vote:** REP. TROPILA moved that RECOMMENDED LANGUAGE FOR THE DEPARTMENT OF COMMERCE CONSUMER AFFAIRS DIVISION AS FOLLOWS BE ADOPTED. Motion carried unanimously.

**"The department shall seek and use state special revenue received from consumer affairs settlements as authorized**

**per district court order to offset and minimize use of general fund within the Telemarketing and Lemon Law programs as provided in 17-2-108, MCA."**

That concluded the business before the committee regarding miscellaneous agency issues.

**{Tape : 2; Side : B; Approx. Time Counter : 412}**

**CHAIRMAN HAINES** announced the Lottery Division wished to speak to the committee. **Mr. Gerald LaChere, Director, Lottery Division, Department of Commerce**, stated he would like to address the Lottery budget request DP-24 On-line Terminals which failed earlier. He distributed a spreadsheet of information for the committee.

**EXHIBIT (jnh37a08)**

**Mr. LaChere** explained the figures on the spreadsheet showing figures for five fiscal years of the estimated additional revenue generated by new terminal placements. The expectation is to install three terminals a month for fiscal 2002 and 2003. Additional weekly revenue generated per machine would be \$300. There would be expenses to depreciate over the lifetime of the equipment.

**{Tape : 3; Side : A; Approx. Time Counter : 0}**

**Mr. LaChere** continued presenting the figures of expended additional revenues with the new terminal placements month by month. Each calculation involves 52% in prize expenses, 8.35% vendor fees, and commissions at 5%. The net income figure is to be transferred to the general fund beginning in FY02 with \$33,086 and growing to \$237,418 by FY06 for a total of over \$1.1 million for the lifetime of the terminals. He asked the committee to reconsider the project with the figures more adequately presented. The \$345,000 authority asked for in DP-24 in FY02 to purchase the terminals is reflected as an expense in the depreciation and deducted from the gross income.

**{Tape : 3; Side : A; Approx. Time Counter : 55}**

**REP. TROPILA** stated he polled people in his area and found the employee incentive program is not working; he would like to remove it. He felt the salary is sufficient for the job being done. **Mr. LaChere** stated the employee incentive program had been removed previously by the committee.

*{Tape : 3; Side : A; Approx. Time Counter : 70}*

**Motion:** REP. TROPILA moved that DEPARTMENT OF COMMERCE LOTTERY DIVISION DP-24 ON-LINE TERMINALS IN THE AMOUNT OF \$345,000 BE ADOPTED.

**Discussion:** There was further discussion of these terminals which are being used for the sale of scratch tickets. This would allow the sale of lottery tickets from the same location. A one-time-only designation would not require the legislature to revisit this issue in the next session. Language for reporting to the session might be required.

*{Tape : 3; Side : A; Approx. Time Counter : 143}*

**Motion:** REP. TROPILA moved that DEPARTMENT OF COMMERCE LOTTERY DIVISION DP-24 ON-LINE TERMINALS IN THE AMOUNT OF \$345,000 ONE-TIME ONLY AND APPROPRIATE LANGUAGE FOR REPORTING BACK TO THE NEXT SESSION BE ADOPTED. Motion carried 4-2 with Kaufmann and Nelson voting no.

**Mr. Younkin** clarified the full cost (not just an increase) of the incentive program had been included in the decision package which failed previously.

**CHAIRMAN HAINES** asked the committee to meet again on February 16 to discuss the situation with Fish, Wildlife and Parks Chief Plenty Coups Park issue and hear **REP. RANEY**. **REP. TROPILA** is excused from that meeting.

**ADJOURNMENT**

Adjournment: 10:45 A.M.

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REP. DICK HAINES, Chairman

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SANDRA WHITAKER, Transcription  
Secretary

DH/SW

**EXHIBIT** (jnh37aad)